

Add a new heading for CHAPTER Env-Dw 1000 to read as follows:

CHAPTER Env-Dw 1000 GRANTS FOR PUBLIC WATER SYSTEMS

Add a new heading for PART Env-Dw 1001 and reserve the Part, as follows:

PART Env-Dw 1001 GRANTS FOR SURFACE WATER TREATMENT, REGIONAL WATER SYSTEMS, AND GROUNDWATER INVESTIGATIONS - RESERVED

Readopt with amendment PART Env-Ws 394, eff. 5-3-01 (doc. #7487), and renumber as PART Env-Dw 1002, to read as follows:

PART ~~Env-Ws 394~~ Env-Dw 1002 WATER SUPPLY LAND *PROTECTION* GRANT PROGRAM

Statutory Authority: RSA 486-A

~~Env-Ws 394.01~~ **Env-Dw 1002.01 Purpose.** The purpose of these rules is to establish procedures and standards for the application and award of grants to purchase land or conservation easements for land within the source water protection areas of active or proposed sources of public water supply for community or non-community, non-transient water systems to ensure the permanent protection of these critical drinking water resources.

~~Env-Ws 394.02~~ **Env-Dw 1002.02 Definitions.**

- (a) “Active” means; being subject to RSA 485 the NH Safe Drinking Water Act.
- (b) “Applicant” means an entity ~~who~~ **that** is applying for a water supply land ***protection*** grant under this program ***and that is:***
 - (1) ***A municipality; or***
 - (2) ***A nonprofit organization exempt from taxation under §501(c)(3) of the Internal Revenue Code which has public water supply as its principal mission.***
- (c) “Community water system” means “community water system” as defined in RSA 485:1-a, I, namely “a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.”
- (d) “Conservation easement” means a ~~perpetual conservation restriction as defined in RSA 477:45, I~~ ***legally-enforceable agreement between a land owner and a land trust or governmental agency that permanently restricts the uses of the land to which it applies in order to protect the land’s conservation values.***
- (e) ***“Conservation interest” means:***
 - (1) ***The fee simple ownership of a parcel of land where the land is to be protected from development in perpetuity; or***
 - (2) ***A conservation easement.***
- (ef) “Department” means the department of environmental services.

(g) ***“Grant property” means:***

(1) ***Fee ownership of a parcel of land, or portion thereof, that will be acquired using grant funds and protected from development in perpetuity; or***

(2) ***An interest in land that will protect the land from development in perpetuity, such as a conservation easement, that is to be acquired using grant funds.***

~~(f-h)~~ ***“Known contamination source” means a site(s) where source of contamination that is known to exist as identified in the department’s geographic information system (GIS).***

(i) ***“Match property” means:***

(1) ***Fee ownership of a parcel of land, or portion thereof, that is to be protected from development in perpetuity as part of the match requirements specified in Env-Dw 1002.06; or***

(2) ***An interest in land, such as a conservation easement, that will be used to meet the match requirements specified in Env-Dw 1002.06.***

~~(g)~~ ***“Municipality” means a city, town, village district, or precinct.***

~~(h-k)~~ ***“Non-transient non-community water system” means “non-transient non-community water system” as defined in RSA 485:1-a, XI, namely “a system which is not a community water system and which serves the same 25 people, or more, over 6 months per year.”***

~~(i-I)~~ ***“Potential contamination source” means “potential contamination source” as defined in Env-Wq 401.03(f), namely “as specified in RSA 485-C:7, I, human activities or operations upon the land surface that pose a foreseeable risk that of introducing regulated substances contaminants might be introduced into the environment in such quantities as to degrade the natural groundwater quality. The term includes those land uses Examples of potential contamination sources are listed in RSA 485-C:7, II.”***

~~(j-m)~~ ***“Proposed source” means sites in the department’s geographic information system groundwater hazard data layer a proposed well or surface water intake for which a community or non-transient non-community water system has received all required approvals from the department.***

(n) ***“Riparian frontage” means the extent of the frontage of land along a surface water that is:***

(1) ***Depicted in the high resolution National Hydrography Dataset (NHD) maintained by the New Hampshire geological survey at 1:24,000-scale or better as lake/pond, stream/river, swamp/marsh, canal/ditch, connector, or reservoir, and which drains to the water supply source via surface flow; or***

(2) ***A perennial stream that has continuous flow during years of normal rainfall and which drains to the water supply source via surface flow.***

~~(k-o)~~ ***“Sanitary radius-protective area” means an area in the immediate vicinity of the well that is under legal control of the water supplier and is maintained in a natural state so as to minimize the risk of groundwater contamination “sanitary protective area” as defined in Env-Dw 301.06, Env-Dw 302.06, and Env-Ws 372.14 or successor rules in Env-Dw.***

~~(l-p)~~ ***“Source” means groundwater or surface water which contributes water to a well or surface***

water intake.

(mq) “Source water protection area” means “source water protection area” as defined in RSA 486-A:2, ***VI***, namely “the area around a source of public drinking water, such as a well or surface water intake, through which water is likely to flow towards the source.”

(r) ***“Stewardship” means “stewardship” as defined in RSA 486-A:2, VII, namely “ongoing surveillance of water supply protection land acquired pursuant to this chapter to ensure that the conservation intent is maintained.”***

(ns) “Undeveloped” means forest, farm, or other land that has not been substantially altered from its natural state and contains no structures or alterations which would jeopardize water quality.

~~Env-Ws 394.03-Env-Dw 1002.03~~ ***Process for Obtaining Water Supply Land Protection Grants.*** To ***The process*** for obtaining a water supply land ***protection*** grant the applicant shall follow the process described ~~here be~~ as follows:

(a) ***The applicant shall*** ~~c~~Complete a project eligibility application in accordance with ~~Env-Ws 394.07-Env-Dw 1002.07~~ and submit it to the department prior to the deadline specified by the department in accordance with ***Env-Dw 1002.04***;

~~(b) Submit the project eligibility application to the department in accordance with the eligibility cycles specified in Env-Ws 394.04;~~

~~(eb) Receive~~***The department shall make*** an eligibility determination ~~from the department on each project eligibility application and notify each applicant~~ in accordance with ~~Env-Ws 394.08-Env-Dw 1002.08~~;

~~(dc) If the~~***For each*** project ***that is determined to be*** eligible, having completed (a) through (e) above or having chosen to forego (e) and to instead submit the eligibility and grant application at the same time the applicant shall:

(1) Complete a ***final*** grant application in accordance with ~~Env-Ws 394.10-Env-Dw 1002.09~~, which includes documentation of at least a 75% match with the criteria ~~as~~ specified in ~~Env-Ws 394.06-Env-Dw 1002.06~~; and

(2) Submit the ***final*** grant application to the department in accordance with ***Env-Dw 1002.09*** ~~the application cycles specified by the deadline established by the department in Env-Ws 394.09~~***accordance with Env-Dw 1002.04***;

~~(ed) Receive notification from~~***The department shall review and rank the final applications in accordance with Env-Dw 1002.12 and notify each applicant*** of project selection in accordance with ~~Env-Ws 394.11-Env-Dw 1002.14~~;

~~(fe) If a~~***For each*** project ***that*** is selected for a grant, ***the applicant shall*** submit the following to the department prior to the grant being awarded:

(1) An environmental site assessment, if required ***by Env-Dw 1002.15(b)***, prepared in accordance with ~~Env-Ws 394.12-Env-Dw 1002.15(c) and (d)~~;

(2) A property survey prepared in accordance with ~~Env-Ws 394.13-Env-Dw 1002.16~~;

- (3) An appraisal prepared in accordance with ~~Env-Ws 394.14~~ ***Env-Dw 1002.17***;
 - (4) A title examination and, ~~if necessary~~, an opinion of title prepared in accordance with ~~Env-Ws 394.15~~ ***Env-Dw 1002.18***; and
 - (5) Baseline documentation in accordance with ~~Env-Ws 394.18~~ ***Env-Dw 1002.21(c)***; and
 - (6) ***A stewardship plan in accordance with Env-Dw 1002.21(b)(3).***
- (gf) ~~If the~~ ***For each*** grant ~~that~~ is awarded, ~~the applicant shall~~:
- (1) Execute the land transaction(s) in accordance with ~~Env-Ws 394.19~~ ***Env-Dw 1002.22***;
 - (2) Record the deed(s) and survey(s), if applicable, in accordance with ~~Env-Ws 394.19~~ ***Env-Dw 1002.22***;
 - (3) Adhere to grant contract conditions; and
 - (4) Provide ongoing stewardship of ~~the each grant property and match~~ property in accordance with ~~Env-Ws 394.18~~ ***Env-Dw 1002.21(d)***.

~~Env-Ws 394.04~~ ***Env-Dw 1002.04*** Eligibility Cycles Application Deadlines.

(a) ~~For the initial grant cycle, an applicant shall complete a project eligibility application in accordance with Env-Ws 394.07 and submit it to the department on or before November 1. The department shall establish each project eligibility deadline based on availability of funding, and announce the deadline by publishing the date on the department's web page, issuing a press release, and mailing an announcement by U.S. Postal Service or electronic mail, or both, to those entities who have requested to be informed of such deadlines.~~

(b) ~~The applicant shall submit project eligibility applications prepared in accordance with Env-Ws 394.07 to the department on or before April 1 and October 1, each year that grant funds are available, to be considered in the semi-annual eligibility review periods beginning on those dates. For each round of funding, the final application deadline shall be:~~

- (1) ***No later than 120 days of the project eligibility application deadline; and***
- (2) ***Announced at the same time as the project eligibility application deadline.***

~~(c) The applicant may submit the grant application at the same time as the project eligibility application.~~

(c) ***Eligibility applications for projects that occur between grant rounds shall be considered for funding in a subsequent grant round provided the eligibility application is submitted prior to the applicant acquiring the land or conservation easement(s).***

~~Env-Ws 394.05~~ ***Env-Dw 1002.05*** Eligibility Criteria. A project shall be eligible ~~to apply for a grant when~~ ***only if*** all of the following conditions are met:

~~(a) The applicant is a New Hampshire non-profit, 501(c)(3) organization having water supply as a principal mission or a municipality;~~

~~(ba) The land or conservation easement to be acquired, and any donation of interest in land to be used as match,~~ ***Each grant property and each match property*** is in the ~~a~~ source water protection area(s) for an active or proposed source(s) of public drinking water for a community or non-transient non-community water system, except for any small portions of land which extend beyond the source water protection area boundary which would be impractical to subdivide off, ***as specified in RSA 486-A:7, II(a)***;

~~(eb) The land or conservation easement area to be acquired, and any donation of interest in land,~~ ***Each grant property and each match property*** that is being obtained for the protection of a surface water supply is either:

(1) ***Is*** within 5 miles of the intake on a river or, in the case of reservoirs or lakes, ***is within*** 5 miles ~~from of~~ the source being protected; ***or***

(2) ***Contains riparian frontage within the watershed of the water supply source.***

(c) ***Each grant property and each match property is outside the sanitary protective area for a proposed source, provided that any portion of a property that is within the sanitary protective area for a proposed source is not eligible for funding;***

(d) The applicant's share of the project value, or "match", meets the criteria specified in ~~Env-Ws 394.06-Env-Dw 1002.06~~;

~~(e) The land or conservation easement area to be acquired, and any donation of interest in land to be used as match,~~ ***Each grant property and each match property*** is undeveloped land and free of known ***contamination sources*** and potential contamination sources that are known to the applicant or identified in the department's geographic information system;

{paragraph (f) has been moved and renumbered as Env-Dw 1002.14(c)}

~~(gf) The land or interest in land to be protected and any match land,~~ ***No grant property*** is not already permanently protected and it is not currently ***or*** owned by the applicant ***prior to submitting a project eligibility application***; and

(g) ***No match property is already permanently protected more than one year prior to the date the project eligibility application is submitted; and***

(h) ~~The land or interest in land to be protected~~ ***Title to each grant property and each match property*** will be held by a ~~municipality~~ ***water supply land protection grantee as defined by RSA 486-A:2, VIII***.

~~Env-Ws 394.06-Env-Dw 1002.06~~ Match Criteria.

(a) The ***value of the*** match shall equal at least 75% of the eligible water supply land protection costs ***as defined by RSA 486-A:2, III-a***, which include the costs for the land or ~~conservation easement interest in land~~ and associated legal and transaction costs associated with the protection of ~~the land~~ ***each grant property and each*** ~~or~~ match properties.

(b) The match shall consist of one or more of the following:

(1) A municipal, state, or federal appropriation ~~or other funds~~;

(2) A private cash donation;

(3) A donation, or partial donation, of ~~an interest in land~~ ***match property*** in one or more existing or proposed source water protection areas, providing the following conditions are met:

- a. ~~The land or conservation easement~~ ***Title to the match property*** will be held by a ~~municipality~~ ***water supply land protection grantee as defined by RSA 486-A:2, VIII;***
- b. The transaction(s) to acquire the ~~interest in land~~ ***match property*** will be completed prior to or simultaneously with the completion of the transaction(s) for the ***grant*** property(*ies*) ~~that is being acquired with grant funds;~~
- c. The ~~land, or interest in land to be donated,~~ ***match property*** is located within the same source water protection area as that for the ***grant*** property(*ies*) ~~being protected with grant funds, or is in~~ a protection area for another source serving the same grantee; and
- d. The match value for the ~~donated land or interest in land~~ ***match property*** ~~has been or will~~ be established by an appraisal in accordance with ~~Env-Ws 394.15~~ ***Env-Dw 1002.17***; and

(4) ~~Expenses~~ ***A donation, or partial donation, of services or payment for services*** necessary to complete the transaction, including land transaction consultant, survey, appraisal, title ~~examination~~ ***opinion***, environmental assessment, stewardship baseline documentation, and attorney fees.

~~Env-Ws 394.07~~ ***Env-Dw 1002.07 Project Eligibility Application.*** ~~(a) The applicant shall submit the project eligibility application on forms supplied by the department. (b) The applicant for project eligibility application shall include~~ ***provide the following information on or with a form obtained from the department:***

~~(1a)~~ The name, ***mailing*** address, and ***daytime telephone*** number of the applicant ***and, if available, and e-mail address or web site address;***

~~(16b)~~ ***Whether*** ~~The type of applicant, either is a municipality or a section-§501(c)(3) non-profit having a~~ ***public*** water supply ***as a principal mission; and***

~~(2c)~~ The name, ***mailing*** address, and ***daytime telephone*** number of ~~the contact person~~ ***an individual who is authorized to interact with the department on behalf of the applicant relative to the application and, if available, and e-mail address for that individual;***

~~(3d)~~ The US Environmental Protection Agency public water system identification number(s) for the source(s) of public drinking water that will be protected or, ~~if it is for~~ a proposed source, the public water system's identification number;

~~(4e)~~ The location of ~~the parcel(s)~~ ***each grant property and each match property***, including tax map, lot number, and deed reference, including book and page;

~~(5f)~~ ~~A sketch of the~~ ***Geographic information system (GIS) shape file(s) or a paper map showing the boundaries of each grant property and each match*** ~~properties on a topographic map;~~

~~(7g)~~ ***The acreage of each grant property and each match property;***

~~(7h)~~ The total acreage of the ~~parcel(s) and the~~ area proposed for protection, ***that is, the total***

combined acreage of all the grant properties and match properties;

(6i) A description of ~~the~~ ***each grant*** property and ~~any donated interest in land to be used as~~ ***each match property***, ~~that shall~~ ***which*** includes:

(1) ***The location of: a. Structures; b. Impoundments; and c. gravel pits or other disturbances;***

(2) ***The approximate area, in acres or by percentage, covered by field, forest, wetlands, and surface waters respectively;***

~~d.~~(3) ***A statement that the property does not have any known contamination source; or and***

(4) ***A statement that the property does not have any potential contamination sources known to the applicant or*** identified by the department's geographic information system;

{ subparagraph (7) has been moved and renumbered as paragraph (h) }

(8j) A description of how each of the eligibility criteria ~~contained~~ ***specified*** in ~~Env-Ws 394.05-Env-Dw 1002.05~~ ***have*** ~~has~~ been met;

~~(9) A description of conservation values and uniqueness of the properties;~~

~~Env-Ws 394.10(b)(13-k)~~ A description of conservation values for ~~the~~ ***each grant*** property and ~~any donated interest in land to be used as~~ ***each match property***, including:

~~a.~~(1) Watershed, floodplain, wetland, and water-quality protection value;

~~b.~~(2) Public recreational uses, accessibility, and potential;

~~c.~~(3) Significant scenic value;

~~d.~~(4) Historic, cultural or archaeological value;

~~e.~~(5) ***Unique geologic value features;***

~~f.~~(6) Rare species value or "exemplary natural communities"; value, as identified ~~and contained in~~ ***by*** the New Hampshire ~~Natural Heritage Inventory's Geographic Information System data layer~~ ***bureau***;

~~g.~~(7) Length of undeveloped shoreline on pond, lake, stream, or navigable river;

~~h.~~(8) Wildlife value and management potential, ***such as being identified as a conservation focus area by the New Hampshire fish and game department's Wildlife Action Plan;***

~~i.~~(9) Forestry value, management status, and acres of productive soils;

~~j.~~(10) Agricultural value, including acres of soils with ~~prime or statewide significant designation~~ ***"important farmland" identified by the U.S. Department of Agriculture, Natural Resources Conservation Service;*** and

~~k.~~(11) Any other identified conservation value; ~~and~~

~~(10l)~~ ***The identity of each owner of each grant property and each match property and a statement, signed and dated statement(s) from the by each landowner(s), stating the owner's willingness to negotiate the acquisition of the properties;***

~~(11) The dated signature of the applicant or the applicant's authorized representative;~~ now covered by (t), below

~~(12) A description of the match authorized, received, or anticipated;~~ now covered by (o)(1), below

~~(13) The value of the match, including the estimated assessed value of any interest in land that will be used as match;~~ now covered by (o) intro, below

~~Env-Ws 394.10(e)(6)e.(m)~~ An estimated fair market value or ad valorem price for ~~the each grant property and any donation of interest in land being used as each match property;~~

~~Env-Ws 394.10(e)(6)d.(n)~~ ***If known, The price at which the each landowner of each grant property and each match property will sell the property;***

~~Env-Ws 394.10(e)(6)e.(o)~~ ***The total value of the match, including:***

(1) Funds, whether authorized, received, or anticipated; and

(2) The estimated expense(s)-cost of services being used as a match;

~~(14p)~~ The amount of funding sought from the department to acquire the ***grant property(ies)***;

~~(15q)~~ ***The type of transaction-Whether the property interest anticipated to be acquired, either is fee simple title or a conservation easement; and***

{subparagraph (16) has been moved and renumbered as paragraph (b)}

~~(17) The identity of the owner of the land or easement that is acquired.~~ merged into (l), above

~~Env-Ws 394.10(b)(4)(r)~~ ***Directions to each grant property and each match property, with instructions on how to gain access to the property to inspect it for purposes of inspection;***

~~Env-Ws 394.10(e)(4)(s)~~ A copy of a source water or wellhead protection plan, if available; ***and***

(t) The signed and dated statements specified in Env-Dw 1002.10(a).

~~Env-Ws 394.08-Env-Dw 1002.08~~ Eligibility Determination.

(a) The department shall determine ~~whether that~~ a proposed grant project is eligible to warrants review ~~of as a grant application based upon fulfilling~~ ***if the eligibility application demonstrates that the project meets*** the eligibility requirements specified in ~~Env-Ws 394.05-Env-Dw 1002.05.~~

(b) The department shall ~~provide~~ ***notify*** the applicant ~~with a written determination in writing~~ of the applicant's ***project's*** eligibility within 30 calendar days of the ***project*** eligibility ~~cycle-application~~ submission deadline.

(c) If the ***project as proposed does not meet the*** eligibility requirements specified in ~~Env Ws 394.05-Env-Dw 1002.05~~ are not met, the applicant may revise the ***project*** eligibility application and resubmit it in a subsequent ~~eligibility cycle~~ ***grant round***.

~~Env Ws 394.09 Grant Application Cycles and Review.~~

- (a) ~~For the initial grant cycle, an applicant may submit a grant application on or before January 1.~~
(b) ~~An applicant may submit a grant application to the department on or before June 1 and December 1 to be considered in the in the semi-yearly review period beginning on those dates.~~
(c) ~~An applicant may submit the grant application when submitting the project eligibility application.~~
(d) ~~Only grant applications for projects which the department has determined are eligible using the criteria contained in Env Ws 394.05 shall be considered for grant funding.~~

~~Env Ws 394.10-Env-Dw 1002.09~~ ***Final Grant Application Requirements.*** (a) ~~Grant applications shall be made on forms supplied by the department.~~ (b) ***After being notified that the project is eligible, the*** Applicants shall ~~supply-submit~~ the following information ~~on or with a final grant application form obtained from the department:~~

(a) ***The information specified in Env-Dw 1002.07(a) through (s); and***

- (1) ~~The name, address, and phone number of the applicant;~~ covered by 1002.09(a)
(2) ~~The name, address, and phone number of the contact person;~~ covered by 1002.09(a)
(3) ~~The name, address, and phone number of the property owner(s);~~ covered by 1002.09(a)
{subparagraph (b)(4) has been moved and renumbered as Env-Dw 1002.07(r)}
(5b) The ***signed and*** dated ~~signature of the applicant or the applicant's authorized representative;~~ ***statements specified in Env-Dw 1002.10(b).***
(6) ~~The dated signature(s) of all title holders;~~ covered by 1002.09(b)
(7) ~~The US Environmental Protection Agency public water system identification number(s) for the source(s) of public drinking water that will be protected or the public water system identification number if it is a proposed source;~~ covered by 1002.09(a)
(8) ~~The location of the parcel(s), including tax map, lot number, and deed reference, including book and page;~~ covered by 1002.09(a)
(9) ~~The total acreage of the area proposed for protection including;~~ covered by 1002.09(a)
a. ~~Acreage of land being protected, excluding any match lands;~~
b. ~~Acreage of land or interest in land being proposed as match;~~
c. ~~Acreage of each separate ownership;~~
(10) ~~The following percentages:~~
a. ~~Percent of source water protection area that would be protected by the application;~~
b. ~~Percent of source water protection area currently protected;~~
c. ~~Percent of sanitary radius that would be protected by this application; and~~
d. ~~Percent of sanitary radius currently protected;~~
(11) ~~A description of land use(s) within the source water protection area;~~

- (12) ~~A description of proposed land use for the property and any donated interest in land to be used as match;~~
- { subparagraph (b)(13) has been moved and renumbered as Env-Dw 1002.07(k) }
- (14) ~~A description of the match authorized, received, or anticipated.~~ now covered by 1002.07(o)(1)
- (c) ~~The applicant shall submit the following information with the application:~~
- (1) ~~A United States Geological Survey (USGS) topographic map, which identifies the following areas within the applicable source water protection area(s):~~
- ~~a. The property to be acquired with the grant;~~
 - ~~b. Any interest in land to be used as match;~~
 - ~~c. Any property owned or otherwise protected by the applicant; and~~
 - ~~d. Any other protected lands;~~
- (2) ~~A map, at a scale which ensures that all details are legible, which identifies all developed and undeveloped parcels within the applicable source water protection area(s);~~
- (3) ~~A map of the property and a map of any donated interest in land to be used as match, at a scale which ensures that all details are legible, which identifies the following:~~ covered by 1002.09(a)
- ~~a. Any structures;~~
 - ~~b. All utilities and wells;~~
 - ~~c. All roads or trails;~~
 - ~~d. All easements or rights of way;~~
 - ~~e. The approximate areas of field, forest, wetlands, and surface waters; and~~
 - ~~f. Gravel pits or disturbed areas;~~
- { subparagraph (c)(4) has been moved and renumbered as Env-Dw 1002.07(s) }
- (5) ~~A plan and a schedule for owning or controlling the entire sanitary radius area within 3 years if it is not currently protected and will not be protected as a result of obtaining the grant;~~
- (6) ~~Financial information including the following:~~
- ~~a. Current use taxation status of the property and any donation of interest in land being used as match;~~
 - ~~b. Current assessed valuation of the property and any donation of interest in land being used as match;~~
- { clause (c)(6)c. has been moved and renumbered as Env-Dw 1002.07(m) }
- { clause (c)(6)d. has been moved and renumbered as Env-Dw 1002.07(n) }
- { clause (c)(6)e. has been moved and renumbered as Env-Dw 1002.07(o)(2) }

Env-Dw 1002.10 Statements Required for Grant Applications.

- (a) ***The signed and dated statements required by Env-Dw 1002.07(t) shall be as follows:***
- (1) ***A statement signed and dated by the applicant that all data and information submitted to qualify for the grant are true and correct to the best of the applicant's knowledge; and***
- (2) ***A statement signed and dated by each landowner acknowledging the landowner's***

willingness to enter into negotiations for the acquisition and listing all liens and encumbrances on the property.

(b) ***The signed and dated statements required by Env-Dw 1002.09(b) shall be as follows:***

(71) A ~~signed and dated~~ statement ***signed and dated by the each landowner(s) of each grant property and each match property that the owner:***

a. Agrees ~~not to~~ ***not*** sell or commit to sell the property(*ies*) covered by the application except to the applicant for 120 days; ~~and~~

b. Agrees to ~~permit~~ ***allow the property(ies) to be*** inspected~~ion~~, surveyed, and appraised~~ed~~ thereof within 120 days from the date of receipt ***by the department*** of a copy of the application ~~by the department; and~~

c. ~~Specifies~~ ***Identifies*** all liens and encumbrances on the property(*ies*); ~~and~~

(82) A ~~signed and dated~~ statement ***signed and dated by the applicant*** that the applicant will comply with the conditions specified in RSA 486-A:7, II(a) through (e) ***and that the data and information submitted to qualify for the grant are true and correct.***; ~~and~~

(9) A ~~stewardship program plan which addresses requirements contained in Env Ws 394.17 for the property and any donated interest in land to be used for match.~~

~~(d) Env-Dw 1002.11~~ ***Confidentiality of Certain Information.*** The price at which ~~the each landowner of grant property or match property~~ will sell the property ***provided pursuant to Env-Dw 1002.07(n)*** and the statement of liens and encumbrances that is submitted ~~in the application, in accordance with Env Ws 394.10(c)(6) and Env Ws 394.10(7)c~~ ***Env-Dw 1002.10(a)(2) or (b)(1)c., respectively,*** shall be:

~~(4a)~~ Treated as confidential under the provisions of RSA 91-A:5, IV; and

~~(2b)~~ Subject to disclosure only with the consent of the applicant until the department has selected the application for grant funding;

~~Env Ws 394.11~~ ***Env-Dw 1002.12 Application Ranking and Selection.***

(a) The department shall rank each project within 60 days of the ***final application submittal*** deadline ~~for a grant application cycle established pursuant to Env-Wq 1002.04.~~

(b) The ranking shall be based on ~~a~~ ***the points awarded to each application by the department using the point system specified in Env-Dw 1002.13 after the department*** reviews ~~of the application and conducts a site walk conducted by the department,~~ ***with the application receiving the most points being ranked the highest.***

(c) The department shall:

(1) ***Provide notice and otherwise proceed in accordance with RSA 486-A:8-a, II; and***

(2) ***Select the highest ranked projects for funding in each grant application cycle round starting with the highest ranked project and continuing until all available funding for that cycle is depleted.***

(d) No ~~project~~***single applicant*** shall receive greater than 30% of the available funding ~~for the~~***in any one*** grant application ~~eye~~***round***.

(e) Projects not selected for funding ***in a grant round due to insufficient funds*** shall be reconsidered in future grant ~~application cycles~~***rounds*** providing the applicant notifies the department that the grant application is to be reconsidered and any date-sensitive aspects of the application are updated.

~~(f) Projects shall be ranked sequentially such that the project with the highest number of total points shall receive funding first, subject to (e) above.~~

Env-Dw 1002.13 Scoring System.

~~(ga) The department shall assign p~~***Points shall be assigned to projects based on the following numerical system: to each application as specified in (b) through (q), below, and then add the points together to get one point total, or score, for the application as a whole.***

(b) For each project that is located within more than one source water protection area, the department shall calculate a score for each source water protection area and then use the highest score to rank the project in relation to other projects.

~~(1c) Values assigned according to~~***The department shall assign points based on*** the type of water system ~~shall be as follows:~~

~~a.(1)~~ For ***a*** non-transient non-community systems, 0 points;

~~b.(2)~~ For ***a*** community systems ***other than a municipally-owned system***, ~~1~~***one*** point; ~~and or~~

~~c.(3)~~ For ***a*** municipal systems, ~~3~~***5*** points;

~~(2d) Values assigned~~***The department shall assign points*** based on the ~~size of~~***population served by*** the water system ~~shall be as follows:~~

~~a.(1)~~ For ***a*** systems serving 25– ~~to~~ 100 people, 0 points;

~~b.(2)~~ For ***a*** systems serving 101– ~~to~~ 500 people, ~~1~~***one*** point;

~~c.(3)~~ For ***a*** systems serving 501– ~~to~~ 2,500 people, 2 points;

~~d.(4)~~ For ***a*** systems serving 2,501– ~~to~~ 5,000 people, 3 points; ~~and or~~

~~e.(5)~~ For ***a*** systems serving over 5,000 people, 4 points;

~~(3) Values assigned based on the status of the water source shall be:~~

~~a. For sources that are proposed, 1 point; and~~

~~b. For sources that are active, 2 points;~~

~~(4) Values assigned based on the total percent of source water protection area that will be protected through ownership or easement, by the applicant or others, shall be:~~

~~a. For projects that result in the protection of less than 10% of the source water protection area, 0 points;~~

- ~~b. For projects that result in the protection of 10-20% of the source water protection area, 1 point;~~
- ~~c. For projects that result in the protection of 21-40% of the source water protection area, 2 points;~~
- ~~d. For projects that result in the protection of 41-60% of the source water protection area, 3 points; and~~
- ~~e. For projects that result in the protection of more than 60% of the source water protection area, 4 points;~~

(5e) ~~Values assigned~~ ***The department shall assign points*** based on the number of ***community water supply*** sources ~~to be protected shall be as follows:~~

- ~~a.(1)~~ For one source, 0 points;
- ~~b.(2)~~ For 2 sources, ~~1-one~~ point; ~~and-or~~
- ~~c.(3)~~ For 3 or more sources, 2 points;

(6f) ~~Values assigned~~ ***The department shall assign points*** based on the ***total*** acreage of land proposed for acquisition, which includes donations of interest in land and associated parcels for purchase ~~shall be grant property and match property as follows:~~

- ~~a.(1)~~ For projects containing less than 10 acres, 0 points;
- ~~b.(2)~~ For projects containing ~~between 10-~~ ***acres or more but not more than*** 40 acres, ~~1-one~~ point;
- ~~c.(3)~~ For projects containing ~~between more than 40- but not more than~~ 99 acres, 2 points;
- ~~d.(4)~~ For projects containing ~~between more than 99- but not more than~~ 250 acres, 3 points; ~~and-or~~
- ~~e.(5)~~ For projects containing ~~over more than~~ 250 acres, 4 points;

(7g) ~~Values assigned~~ ***The department shall assign points*** based on the presence of ***any or all of*** the following natural resource, cultural, and historical attributes on the parcels proposed for acquisition, which includes donations of interest in land, ~~shall be the total of the following~~ ***grant property and match property, as follows:***

- ~~a.(1)~~ For projects containing or abutting great ponds, perennial streams or rivers, non-forested wetlands, or floodplains greater than 5 acres; ~~1/2-one~~ point;
- ~~b.(2)~~ For projects containing ~~significant habitat, including rare and state- or federally-listed~~ threatened ***or endangered*** species ***or habitat for such species that has been determined by the executive director of the New Hampshire fish and game department to be critical pursuant to RSA 212-A:9, III, and-or contains rare plants, rare animals, or exemplary natural*** communities; ***that have been identified by the New Hampshire natural heritage bureau,*** 1/2 point;
- ~~c.(3)~~ For projects containing productive forest soils, classified in the “The Role of Soils Maps in Forestry,” by James Spielman, et al. in Spring 1984 issue of Forest Notes, Society for the Protection of New Hampshire Forests, as Group 1A, 1B, or 1C, and where there is

~~management capability;~~ ***that abut conservation land such that there is an unfragmented block of undeveloped land 500 acres or more in size, ½ point;***

~~d.~~(4) For projects containing ***important*** farmland with “prime” or “statewide important soils” according to the ***U.S. Department of Agriculture***, Natural Resources Conservation Service classification system, ~~and where there is management capability;~~ ½ point;

~~e.~~(5) For projects with existing or potential outdoor recreation amenities, such as public trails and public boat access points; ½ point; ~~and~~

~~f.~~(6) For projects containing historical, cultural, or archaeologically significant lands that are on the National Register of Historic Places or identified by the State Archaeologist; ½ point; ***and***

(7) ***For projects containing any other identified conservation value, ½ point.***

(8h) For groundwater sources, ~~values assigned~~ ***the department shall assign points*** based on the distance of the ~~parcel(s) proposed for acquisition~~ ***grant property or match property, which includes donations of interests in land to be used as match,*** from the existing or proposed well ~~shall be the highest of the following~~ ***source to be protected as follows:***

~~a.~~(1) If any of the land is located within the sanitary ~~radius~~ ***protective area for an existing source, 0-25 points;***

~~b.~~(2) If any of the land is located ~~between the sanitary radius to~~ within 600 feet ***of the edge of the sanitary protective area, 2-20 points;***

~~c.~~(3) If any of the land is located ~~between 600- to~~ 1,000 feet ***from the edge of the sanitary protective area, 1-15 points; and***

~~d.~~(4) If any of the land is located ~~beyond 1,000 to~~ 2,000 feet ***from the edge of the sanitary protective area, 0-10 points;***

(5) ***If any of the land is located 2,000 to 3,000 feet from the edge of the sanitary protective area, 5 points;***

(6) ***If any of the land is located 3,000 to 4,000 feet from the edge of the sanitary protective area, 2 points;***

(7) ***If any of the land is located 4,000 to 5,000 feet from the edge of the sanitary protective area, one point; or***

(8) ***If any of the land is located more than 5,000 feet from the edge of the sanitary protective area, 0 points.***

(9i) For river sources, ~~values assigned~~ ***the department shall assign points*** based on the distance of the ~~parcels proposed for acquisition, which includes donations of interests in land to be used as~~ ***grant property and match property;*** up gradient from the intake and within the watershed ***of the source being protected, shall be the highest of the following as follows:***

~~a.~~(1) If any of the land is located within 0-400 feet of the intake, ***2-20 points;***

- ~~b.~~(2) If any of the land is located ~~between 400-~~ ***to*** 1,000 feet from the intake, ~~1-~~***15*** points; ~~and~~
- ~~e.~~(3) If any of the land is located ~~beyond 1,000~~ ***to 2,000*** feet from the intake, ~~0-~~***10*** points;
- (4) ***If any of the land is located 2,000 to 3,000 feet from the intake, 5 points;***
- (5) ***If any of the land is located 3,000 to 4,000 feet from the intake, 2 points;***
- (6) ***If any of the land is located 4,000 to 5,000 feet from the intake, one point; or***
- (7) ***If any of the land is located more than 5,000 feet from the intake, 0 points.***
- (j) ***For surface water sources, the department shall assign points based on riparian frontage as follows:***
- (1) ***For riparian frontage that is within 5 miles of the intake or shore, 2 points for every 1,000 feet of frontage;***
- (2) ***For riparian frontage that is greater than 5 miles and less than 10 miles from the intake or shore, one point for every 1,000 feet of said frontage; and***
- (3) ***If the project includes land on both sides of a river or stream, the frontage on both sides shall be counted.***
- ~~(4)k~~ For pond, lake, or impoundment sources, ~~values assigned to properties~~ ***the department shall assign points*** based on the distance of the ~~parcels proposed for acquisition which includes donations of interests in land to be used as~~ ***grant property or match property*** from the intake ***of the source being protected***, ~~shall be the highest of the following as follows:~~
- ~~a.~~(1) If any of the land is ~~waterfront and~~ within ~~1000-~~***400*** feet of the ~~intake~~ ***shore***, ~~2-~~***20*** points;
- ~~b.~~(2) If any of the land is located ~~between 1000-~~***400-*** ~~4000-~~***1,000*** feet from the ~~intake~~ ***shore***, ~~1-~~***15*** points; ~~and~~
- ~~e.~~(3) If any of the land is ~~waterfront and is located beyond 4000-~~***1,000 to 2,000*** feet from the ~~intake~~ ***shore***, ~~0-~~***10*** points;
- (4) ***If any of the land is 2,000 to 3,000 feet from the shore, 5 points;***
- (5) ***If any of the land is 3,000 to 4,000 feet from the shore, 2 points;***
- (6) ***If any of the land is 4,000 to 5,000 feet from the shore, one point; or***
- (7) ***If any of the land is more than 5,000 feet of the shore, 0 points.***
- ~~(4)l~~ ~~Values assigned~~ ***The department shall assign points*** based on the percentage of total project value, including cash and interests in land to be donated, that is to be provided as match by the applicant ~~shall be as follows:~~
- ~~a.~~(1) For a percentage of total project value ~~of~~ ***greater than 75%- but less than 85%***, ~~1-~~***one*** point; ~~and or~~

- ~~b.(2)~~ For a percentage of total project value of 85-100% ***or greater***, 2 points.;
- ~~(12m)~~ ~~One or more values assigned~~ ***The department shall assign points*** based on the water supply protection measures ~~shall be the total of the following~~ ***that are or will be in effect, as follows:***
- ~~a.(1)~~ For sources for which a comprehensive source water protection program plan is being implemented, ~~1-one~~ point;
- ~~b.(2)~~ For sources with source water protection area regulations in effect, ~~1-one~~ point;
- ~~c.(3)~~ For sources with a source water protection area educational program in effect, ~~1-one~~ point;
- ~~d.(4)~~ For sources with an established land acquisition plan, ~~1-one~~ point;
- ~~e.(5)~~ For sources with existing source water protection area ownership beyond sanitary radius or control through easement by water suppliers or others, ~~1-one~~ point;
- ~~f.(6)~~ For sources with a long-term plan for meeting system demand, ~~1-one~~ point; and
- ~~g.(7)~~ For sources for which a water conservation plan is being implemented, ~~1-one~~ point; ~~and~~.
- ~~(13n)~~ ~~Values assigned~~ ***The department shall assign points*** based on the average per capita income and equalized taxable valuation for the municipality where those served by the water supply to be protected reside, based on the most recent available data, ~~shall be as follows:~~
- ~~a.(1)~~ For applicants with ~~both or either~~ ***or both*** of the averages above the statewide average, 0 points; and
- ~~b.(2)~~ For applicants with both of the averages below the statewide average, 2 points.
- ~~(o)~~ ***The department shall assign 2 points for applications initiated or supported by the water supplier.***
- ~~(p)~~ ***The department shall assign one point for first time applicants.***
- ~~(q)~~ ***The department shall assign one point to projects with a signed contractual agreement between the applicant and the landowner(s).***

Env-Dw 1002.14 Notice of Selection; Required Actions.

- ~~(ha)~~ The department shall notify ***each*** applicants in writing within 60 days of the ***final*** application deadline ***regarding*** whether their application has been selected for grant funding. ***The notice shall specifically state that the selection is contingent upon*** ~~pending the completion of items in accordance with the requirements specified in (ib) and , if applicable, (c), below.~~
- ~~(ib)~~ ~~One~~ ***After*** a project has been selected for grant funding, the ***applicant shall complete the*** following activities ~~shall be completed~~ ***for each grant property and match property*** prior to the department awarding a grant:

- (1) An environmental site assessment, ***in accordance with Env-Dw 1002.15(c) and (d)***, if required ***by Env-Dw 1002.15(b)***, which indicates that the ~~property~~ ***land*** is not contaminated, ~~in accordance with Env Ws 394.12~~;
- (2) A property survey in accordance with ~~Env Ws 394.13~~ ***Env-Dw 1002.16***;
- (3) An appraisal in accordance with ~~Env Ws 394.14~~ ***Env-Dw 1002.17***;
- (4) A title examination ***and legal opinion that there is clear and marketable title to the property*** in accordance with ~~Env Ws 394.15 and Env Ws 394.16~~ ***Env-Dw 1002.18***; and
- (5) Baseline documentation in accordance with ~~Env Ws 394.18~~ ***Env-Dw 1002.21(b)***; and
- (6) ***A stewardship plan in accordance with Env-Dw 1002.21(d)***.

~~Env Ws 394.05(f-c)~~ ***Where the grantee is a municipality***, ~~The project eligibility application is~~ ***shall be*** approved by the local governing body, as defined in RSA 672:6, of the municipality applying for the grant; ~~where the grantee is a municipality~~; ***prior to the department awarding a grant.***

~~Env Ws 394.12~~ ***Env-Dw 1002.15*** Environmental Site Assessment Requirements.

(a) ~~The applicant shall conduct an environmental site assessment, if requested by the department, pursuant to (b) below, after the department notifies the applicant that the applicant's grant application has been selected and prior to the land transaction being completed.~~ ***The environmental site assessment specified in Env-Dw 1002.14(b)(1) shall be done in accordance with this section.***

(b) The applicant shall submit an environmental site assessment for ~~properties to be protected, including each grant property and~~ match properties, ~~which~~ ***that*** contains ***any*** known ***contamination source*** or potential contamination sources ***known to the applicant or*** identified in the department's geographic information system, or if the site walk performed by the department ~~or their agent~~ in accordance with ~~Env Ws 394.14~~ ***Env-Dw 1002.12(b)*** identifies ~~known~~ ***actual*** or potential sources of contamination.

(c) An environmental site assessment shall be performed by an environmental consultant; ~~with~~ ***who has*** at least 5 years' experience in preparing site assessments.

(d) An environmental site assessment shall include the following:

- (1) A ~~50-year~~ history of land usage ***that covers no less than 50 years***;
- (2) A description of the site inspection;
- (3) A review of all ~~waste site files~~ ***department records relating to site investigations or other environmental assessments*** for ~~sites~~ ***all properties*** located within 1,000 feet of the property;
- (4) A description of the ~~waste site file~~ review conducted ***pursuant to (3), above***, including the date of the review ***and who conducted the review***;
- (5) A description of the findings from ~~any waste site files~~ ***the*** reviewed ~~at the department for the property~~; and
- (6) An opinion by the consultant that there are no contamination concerns ~~for~~ ***on*** the ***grant***

property ~~and any interest in land donated for the~~ ***or any match property.***

(e) The applicant shall submit the environmental site assessment to the department upon completion.

~~Env-Ws 394.13~~ ***Env-Dw 1002.16*** Property Survey Requirements.

(a) ~~The applicant shall obtain a property survey. If an accurate~~ ***a survey of each grant property and match property that meets survey standards in effect in New Hampshire at the time the notice under Env-Dw 1002.14(a) is provided*** does not already exist, ~~after the applicant receives notification from the department that the applicant's grant application has been selected and prior to the land transaction being completed~~ ***the property survey required by Env-Dw 1002.14(b)(2) shall be done in accordance with this section.***

{ paragraph (b) has been moved and renumbered as paragraph (e) }

(~~e~~**b**) A New Hampshire licensed ***land*** surveyor shall perform a standard property survey ***for each property*** in accordance with the standards ~~specified in Lan 503.03 — Lan 503.09~~ ***established by the New Hampshire board of land surveyors created under RSA 310-A:55. If 2 or more properties are contiguous, the survey may be done on the combined contiguous properties.***

(~~d~~**c**) ~~The~~ ***In addition to marking*** turning points of the boundaries shall be monumented ~~and as specified in the established survey standards,~~ the boundary lines shall be ~~blazed or painted~~ ***visibly marked*** so that they can be located ~~on the ground by an individual who wishes to walk the boundary of the property. If the marking is not permanent, it shall be renewed at sufficient intervals so as to remain visible.~~

(~~e~~**d**) The survey plan shall include ***the boundaries and acreage of each property and*** the method and accuracy of the survey ~~and a mylar suitable for recording at the registry of deeds.~~

(~~b~~**e**) ***Subject to (f), below,*** ~~The~~ applicant shall provide the department with ~~2~~ ***one*** paper copies ~~and a mylar copy of the standard property survey for the~~ ***each grant*** property ~~or and conservation easement to be acquired with the grant and any interest in land that is being used as~~ ***each match property.***

(f) ***The applicant may provide a digitized polygon file of the standard property survey for each grant property and each match property in lieu of the paper copy required by (e), above.***

~~Env-Ws 394.14~~ ***Env-Dw 1002.17*** Appraisal Requirements.

(a) ~~The applicant shall obtain an appraisal~~ ***required by Env-Dw 1004.14(b)(3) shall be done in accordance with this section*** for each parcel of land ~~after the applicant has received notification from the department that the applicant's grant application has been selected and transaction being completed.~~

(b) A land appraiser with at least 2-years' experience in water supply land appraisals ~~or less than fee-conservation~~ interest appraisals of land shall perform the appraisal, as appropriate for the application.

(c) An appraisal shall be conducted for ~~each~~ ***the grant*** property ~~or interest in land proposed for acquisition or donation and match property and shall be based upon the terms of the proposed conservation easement deed, if any, and the survey performed in accordance with Env-Ws 394.13~~ ***pursuant to Env-Dw 1002.14(b)(2).***

(d) The appraisal shall determine the fair market value of the ***grant*** property ~~or conservation~~

~~easement and match property~~ in accordance with the standards in ~~Env Ws 394.15~~. ***Uniform Standard of Professional Appraisal Practice established by the Appraisal Foundation.***

~~(e) The appraisal shall be conducted in accordance with appraisal standards in Env Ws 394.15.~~

~~(f)e~~ The applicant shall submit the appraisal to the department.

(f) The appraisal shall be completed prior to the grant being awarded but no earlier than one year prior to the land transaction.

(g) If the appraisal was completed within one year but more than 6 months prior to the land transaction, the applicant shall submit either:

(1) A new appraisal or;

(2) An update letter from the appraiser who conducted the original appraisal confirming that a market analysis demonstrates the fair market value of the property has not changed .

~~Env Ws 394.15 Appraisal Standards.~~

~~(a) The appraisal shall be completed before final approval.~~

~~(b) The appraiser shall include the following as the standard and format for all appraisals:~~

~~(1) An introduction including:~~

~~a. A title page with:~~

~~1. The name and address of applicant;~~

~~2. The location of the property; and~~

~~3. The name of the appraiser;~~

~~b. A table of contents;~~

~~c. A letter of transmittal;~~

~~d. Photograph(s) of subject property; and~~

~~e. A statement of limiting assumptions and conditions under which the report value is made; and~~

~~(2) Factual data including:~~

~~a. The purpose of the report including information about the estate appraised and the reason for the report;~~

~~b. The date of field inspection of the subject property and a confirmation statement that the owner did or did not accompany the appraiser;~~

~~c. A legal description of the subject property;~~

~~d. Neighborhood analysis pertinent to the subject property to include, but not be limited to:~~

~~1. Local economic data and trends;~~

~~2. Real estate patterns and growth;~~

~~3. Population; and~~

~~4. Neighborhood amenities; and~~

~~e. Property data to include, but not be limited to:~~

~~1. Site description of quantity, quality and utilization of the following land cover types:~~

~~(i) Wetlands;~~

~~(ii) Floodplains;~~

~~(iii) Soils;~~

~~(iv) Topography;~~

~~(v) Mineral rights and deposits;~~

~~(vi) Leases;~~

- ~~(vii) Permits;~~
- ~~(viii) Access;~~
- ~~(ix) Utilities;~~
- ~~(x) Easements;~~
- ~~(xi) Tidelands;~~
- ~~(xii) Overflow; and~~
- ~~(xiii) Meandered, accretion, and reliction lands;~~
- 2. Description of land improvements for agricultural, forestry or other natural resource management, including, but not limited to:
 - ~~(i) Buildings;~~
 - ~~(ii) Structural land improvements such as dams, fencing, wells, ditches, dikes, reservoirs, irrigation systems and their type, and original and present utility; and~~
 - ~~(iii) Dimensions, composition, condition, age and renovation of subject property;~~
- 3. Other components being appraised as part of the realty being acquired such as stumpage, crops, public access rights, and hunting and fishing rights;
- 4. The current use status and history of uses for the subject property;
- 5. Past 10 years of market history of the subject property such as any offers to buy or sell, the condition and purpose of recent sales and general marketability of the subject property;
- 6. Assessed value and annual taxes for the latest year for subject property and a statement regarding anticipated tax rates; and
- 7. Current zoning of the subject property and possible changes that may influence its value.
- ~~(c) The analysis identified in Env Ws 394.15 (b)(2)d above shall include:~~
 - ~~(1) Highest and best use that can be legally made of the property for which there is a current market;~~
 - ~~(2) Description and justification of highest and best use which is used within the analysis;~~
 - ~~(3) A valuation which shall be:~~
 - ~~a. Based on the highest and best use;~~
 - ~~b. The basis for all subsequent analysis, comparisons, and conclusions; and~~
 - ~~c. Considered only for those uses for which the property is clearly adapted;~~
 - ~~(4) Decisions regarding the following:~~
 - ~~a. Selection and adjustment of market comparisons;~~
 - ~~b. Propriety of improvements;~~
 - ~~c. Present land use; and~~
 - ~~d. Identification of functional and economic obsolescence;~~
- ~~(d) Approaches to valuation of the property utilized in the appraisal report shall depend on the type of property and the availability of data;~~
- ~~(e) If one or more approaches to value are omitted, an explanation shall be included in the report sequences to indicate why the approach was omitted;~~
- ~~(f) The approaches to valuation and requirements shall include:~~
 - ~~(1) The market value approach to value, which includes:~~
 - ~~a. All comparable sales used confirmed by the buyer, seller, broker, or other persons having knowledge of the price, terms and conditions of the sale;~~
 - ~~b. A description of each comparable sale, weighted and analyzed in relation to the subject property to indicate reasoning behind the appraiser's final estimate of value;~~
 - ~~c. Adjustments made when comparing the sales to the subject;~~
 - ~~d. Photographs of sales; and~~
 - ~~e. A property sketch map for comparable sales.~~
 - ~~(2) The cost approach to value, which shall include:~~

- ~~a. Comparative data, arranged in sequence beginning with the estimated reproduction or replacement cost;~~
- ~~b. The source of the cost data; and~~
- ~~c. A description of the dollar amount of physical deterioration and functional and economic obsolescence, or the omission of same. This procedure may be omitted on improvements, both real and personal, for which only a salvage value is estimated; and~~
- ~~(3) The income approach to value, which includes:~~
 - ~~a. Adequate factual data to support each figure and factor used;~~
 - ~~b. Logically arranged data leading to a final estimate of value;~~
 - ~~e. Estimated gross income or economic rent;~~
 - ~~d. An allowance for vacancy and credit losses;~~
 - ~~e. An itemized estimate of total expenses including reserves for replacement;~~
 - ~~f. The capitalization of net income at the prevailing rate in the market for this type of property and location; and~~
 - ~~g. An explanation of the capitalization technique, method and rate used.~~
- ~~(g) The correlation and final estimate of value shall be the final step in the appraisal process and shall be a narrative correlation of the indications of value into a final estimate of value.~~
- ~~(h) The correlation and final estimate of value shall be performed in accordance with the following:~~
 - ~~(1) When only one approach is used, the correlation shall serve as:~~
 - ~~a. A summary of the most pertinent data of that particular approach; and~~
 - ~~b. The appraiser's final conclusions of fair market value.~~
 - ~~(2) When correlating 2 or all 3 approach indications, the appraiser shall:~~
 - ~~a. Take into account the type of property in relation to the adequacy of the data processed in each approach; and~~
 - ~~b. Explain the strengths and weaknesses of each approach and influence the weight to be given each one;~~
 - ~~(3) A final estimate shall be obtained by an examination of the spread between the minimum and maximum figures;~~
 - ~~(4) The appraiser shall place the greatest emphasis on the approach, which most reliably reflects local thinking on marketability;~~
 - ~~(5) Considerations tempering this estimate with any reliance placed on the other(s) shall be given; and~~
 - ~~(6) A final estimate of value in a definite, unqualified statement shall be given;~~
- ~~(i) The signature of the appraiser shall be accompanied by a date on which the report is being submitted.~~
- ~~(j) A certification shall state that:~~
 - ~~(1) The appraiser has personally inspected the property and comparables;~~
 - ~~(2) The facts and data used are, to the best of the appraiser's knowledge and belief, true and correct;~~
 - ~~(3) The appraised value represents the appraiser's best and unbiased judgment;~~
 - ~~(4) The appraiser has no present or contemplated interest in the subject property; and~~
 - ~~(5) In the appraiser's opinion, the estimated fair market value of the property is, in dollars, as of the valuation date.~~
- ~~(k) Addenda shall include, but not be limited to the following:~~
 - ~~(1) Photographs of subject property;~~
 - ~~(2) Location map of subject property;~~
 - ~~(3) Comparable sales data map;~~
 - ~~(4) Details of market data, including photos;~~
 - ~~(5) Plot plans;~~
 - ~~(6) Floor plans, if applicable;~~
 - ~~(7) Other pertinent exhibits; and~~
 - ~~(8) Qualifications of the appraiser;~~

~~(1) When performing the analysis identified in Env-Ws 394.15(b)(2)d. above the following situations shall require special consideration within the analysis of highest and best use:~~

- ~~(1) Conformity with highest and best use shall discuss whether the present use of subject lands and improvements is in conformity with the highest and best use;~~
- ~~(2) Partial acquisition, which, when only part of the ownership is acquired, shall have the highest and best use of both the proposed acquisition and the remainder of the property individually considered and described;~~
- ~~(3) Increases or decreases in the value of any property owned by the owner or a related person, not just contiguous property, resulting from the granting of a perpetual conservation restriction; and~~
- ~~(4) Conservation restrictions, where the highest and best use in the before and after condition shall be considered and described.~~
- ~~(5) Project influence on use shall be disregarded, such as any decrease or increase in the utility of the property prior to the appraisal caused by the project for which the property is being acquired, other than physical deterioration;~~
- ~~(6) The highest and best use shall be estimated as though a new or changing project were not there;~~
- ~~(7) If temporary or interim uses are imminent or very probable, temporary or interim uses shall be recognized and discussed; and~~
- ~~(8) Compatible multiple uses may occur and shall be identified and considered without pyramiding value.~~

~~Env-Ws 394.16~~ ***Env-Dw 1002.18*** Title Examination ***and Opinion*** Requirements.

(a) The applicant shall obtain a title examination ***and opinion*** after the applicant has received notification from the department that their grant application has been selected and before the land transaction occurs ***required by Env-Dw 1004.14(b)(4) shall be obtained in accordance with this section.***

(b) The title ***opinion shall be based on an*** examination shall be conducted ~~for of the title of~~ each ***grant*** property ~~or and each match property~~ interest in land that is protected or donated.

(c) The title examination ***required by (b), above***, shall be conducted according to ***in accordance with*** the “New Hampshire Title Examination Standards” ~~of established by~~ the New Hampshire Bar Association, 1997 edition ***that are in effect when the opinion is rendered.***

~~Env-Ws 394.17~~ ***Env-Dw 1002.19*** Conservation Easement and Deed Language ***Interest Instrument*** Requirements.

(a) The department shall review the form and content of each deed instrument to ***Each conservation interest instrument shall:***

- ~~(1) Assure that~~ ***Uphold*** the conservation purposes of RSA 486-A ~~are upheld in perpetuity;~~
- (2) Protect the quality and sustainable yield of ground and surface water resources associated with the property; ~~and~~
- (3) Safeguard the environmental values of the property which are dependent on water quality and quantity; ***and***
- (4) Convey the right to the State of New Hampshire to enforce the conditions and restrictions of the conservation interest and to recover the costs of such enforcement from***

the easement holder or property owner, or both, if the easement holder and property owner fail to enforce the conditions and restrictions.

~~(b) Conservation easement deeds shall comply with RSA 477:45 and RSA 477:46.~~

(eb) ***Each c***Conservation easements and fee simple deeds ***interest instrument*** shall contain, at a minimum, the following restrictions:

(1) No industrial or commercial activities or improvements shall occur on the property except in conjunction with any water supply, agricultural, forestry, or outdoor recreational activities that ~~may be~~ ***are*** allowed in the deed and approved by the department ~~by the instrument, subject to such conditions as are specified in the instrument;~~

(2) No land surface alterations shall occur on the property, such as filling, excavation, mining, and dredging, except in conjunction with any water supply, agricultural, forestry, or outdoor recreational activities that ~~may be~~ ***are*** allowed in the deed and approved by the department ~~by the instrument, and only to the extent that they do not degrade or threaten to degrade the quality and sustainable yield of ground and surface water resources associated with the property;~~

(3) No wastes generated off the property shall be disposed of, ***stored***, or discharged on the property;

(4) No ~~hazardous~~ substances ***that would be hazardous waste if discarded or abandoned*** shall be ~~stored, applied or~~ disposed of on the property, ***and no such substances shall be stored or applied on the property*** except in conjunction with any water supply, agricultural, forestry, or outdoor recreational activities ***that are allowed by the instrument, and provided that the storage and use*** do not threaten water supply protection and ***are specifically*** ~~may be~~ allowed by the instrument, ~~in the deed approved by the department subject to such conditions as are specified in the instrument;~~

(5) ***No motorized vehicles shall be allowed for recreational purposes, provided that snowmobiles as defined in RSA 215-A:1, XIII, and all terrain vehicles as defined in RSA 215-A:1, I-b, may be allowed if they are operated:***

a. Only on snow and ice outside the sanitary protective area of public water supply well(s);

b. More than 250 feet from a surface water body being used as a public water supply;

c. More than 100 feet from tributaries contributing to such water bodies; except when crossing such tributaries; and

d. Only on designated snowmobile trails depicted on a plan approved by the department in accordance with Env-Dw 1002.20;

~~(56)~~ No acts or uses shall occur on the property that would:

a. Degrade the water quality such that the standards set for public drinking water by the department would be threatened;

b. Cause an unsustainable quantity of water to be withdrawn; ~~and-or~~

c. Harm state or federally recognized rare, threatened or endangered species; ***and***

(67) ~~Permitted~~ ***Allowable*** activities, such as community drinking water supply, agriculture, forestry, and outdoor recreation, shall be conducted in accordance with a plan, best management practices, or conditions set forth in the ~~deed or easement and approved by the department~~ ***instrument***.

(dc) ***If the instrument is conveying a conservation easement, a*** All other customary rights and privileges of ***fee*** ownership shall be retained by the ***fee*** owner, including the right to privacy and to carry out all regular agricultural and forestry practices that are not prohibited by the restrictions.

Env-Dw 1002.20 Snowmobile Trail Plan Approval.

(a) ***Designated snowmobile trails described in Env-Dw 1002.19(b)(5)d. shall be shown on a plan submitted to the department prior to the conservation interest document being filed.***

(b) ***The plan shall:***

(1) ***Show all existing and proposed trails; and***

(2) ***Describe how users of the trails will be educated regarding the need to protect the conservation values of the property over which the trails run.***

(c) ***If a new trail is added or an existing trail is moved after the original plan is approved, a modified plan shall be submitted to and approved by the department prior to the new or relocated trail(s) being used.***

(d) ***The department shall review the plan and issue a written decision to approve or deny it within 30 days of receipt of a new or modified plan.***

(e) ***The department shall approve the plan if the trails meet the criteria specified in Env-Dw 1002.19(b)(5)a. through c. and users of the trails will be educated regarding the need to protect the conservation values of the property over which the trails run.***

~~Env-Ws 394.18~~ ***Env-Dw 1002.21 Stewardship Requirements.***

(a) The grantee shall be responsible for ongoing stewardship of each ~~parcel of land or conservation easement~~ ***interest*** acquired, ~~including any donation of land or easement used as match~~ ***whether as grant property or as match property.***

(b) The grantee shall:

(1) ~~D~~ ***determine the financial and management implications of resources needed to monitor and enforce the terms of the conservation interest for each parcel and grant property and match property;***

(2) ~~E~~ ***establish that it has or can obtain funds to monitor and enforce the easement or manage the property.*** ~~terms of the conservation interest;~~

(3) ***Develop and submit to the department a stewardship plan to meet the requirements of (d), below; and***

- (~~e4~~) The grantee shall enforce the terms of any conservation easements acquired and assume the management of any land acquired ***Implement the stewardship plan*** to safeguard the drinking water source.
- (~~d~~)(1c) ~~Provide~~ ***Prior to acquisition, the grantee shall prepare and submit a*** baseline documentation report ~~which~~ ***that*** describes, in writing and with photographs, the condition of the property at the time of acquisition, including water quality and quantity data ~~which shall be submitted, prior to execution of the land transaction;~~
- (d) The ~~grantee~~ ***stewardship plan*** shall ***require the grantee to:***
- {(d)(1) has been moved and renumbered as (c), above}
- (21) ~~Provide an annual~~ ***Inspect the*** property inspection ~~that~~ ***annually to*** confirms that boundaries are being maintained and land is being appropriately protected according to the terms of the conservation ~~easement~~ ***interest*** and for the purpose of RSA 486-A;
- (32) For ~~conservation easements~~ ***property not held in fee simple***, contact ***all*** landowners annually to inform the landowners of their obligations under the easement;
- (43) Prepare and submit ~~an~~ ***the*** annual stewardship report ***required by RSA 486-A:7, II(e)*** to the department, prior to January 31 of each year, ~~which shall containing~~ the following:
- a. A description of the site inspection conducted;
 - b. A description of any physical changes to the property;
 - c. A description of any landowner contact conducted;
 - d. A description of any conditions ~~which~~ ***that*** violate or may violate the intent of the ~~ownership or the conservation easement~~ ***interest***; and
 - e. A description, including current status of any violations witnessed and remedial steps taken; ***and***
- (4) ***If snowmobiles or all terrain vehicles, or both, are allowed by the conservation interest instrument, ensure compliance with the plan approved pursuant to Env-Dw 1002.20.***

~~Env-Ws 394.19~~ ***Env-Dw 1002.22*** Final Approval, Execution, and Deed Recordation.

- (a) The department shall approve a land transaction based on the following:
- (1) Confirmation that the property is not contaminated based on any environmental site assessment performed in accordance with ~~Env-Ws 394.12~~ ***Env-Dw 1002.15***;
 - (2) Confirmation of the property boundaries and acreage by the property survey performed in accordance ~~Env-Ws 394.13~~ ***with Env-Dw 1002.16***;
 - (3) Negotiation of a price not to exceed the fair market value determined by the appraisal performed in accordance with ~~Env-Ws 394.14~~ ***Env-Dw 1002.17***;

- (4) Confirmation of clear and marketable title for the property~~(s)~~ as determined by the title examination conducted in accordance with ~~Env 394.15~~ ***Env-Dw 1002.18***;
 - (5) Determination that the deed language requires that the land or interest in land remains in the public trust, prohibits land uses detrimental to water supply protection, and allows for public access all in accordance with RSA 486-A:7,II (c) and (d); and ~~Env-Ws 394.17~~ ***Env-Dw 1002.19***;
 - (6) Receipt by the department of the baseline documentation ***and stewardship plan*** prepared in accordance with ~~Env-Ws 394.18~~ ***Env-Dw 1002.21***; and
 - (7) Confirmation that the match requirements have been met.
- (b) Final execution, payment of acquisition cost, and recording of the necessary instruments of transfer shall be conducted after governor and council approval.

~~Env-Ws 394.20~~ ***Env-Dw 1002.23*** Procedure for Release of Lands Acquired Which Protect a Non-viable Source with Grant Money.

- (a) ***As provided in RSA 486-A:13, I:***
- (1) ***No deviation in the uses of any grant property to uses or purposes not consistent with the purposes of this chapter shall be allowed; and***
 - (2) ***The sale, transfer, conveyance, or release of any such land or interest in land from public trust shall be prohibited except when the conditions of RSA 486-A:13, II or III are met.***
- (ab) ~~The A grantee of the land or conservation easement under this program who believes that the conditions of RSA 486-A:13, II or III are met~~ may submit a written request to the department to release lands acquired with water supply land protection grant funds. ~~if the grantee believes that the water supply source is no longer viable and providing the release does not violate other contracts or easement restrictions associated with the property.~~
- (bc) ~~The request shall explain why the grantee believes that the source is not and will not be viable, due to the inability to remediate contamination or provide treatment which improves water quality so that it is suitable for human consumption~~ ***conditions of RSA 486-A:13, II or III, as applicable, are met.***
- (ed) The department shall review the request to determine whether to release the ~~acquired~~ land, using all available hydrogeologic and treatment technology information.
- (d) ~~Lands shall be released if water quality standards as specified in Env Ws 310—Env Ws 319 cannot be achieved through remediation or treatment.~~
- (e) The department shall inform the grantee of the decision in writing within 90 days of receiving the request.
- (f) ***If the department releases the land,*** ~~t~~The department shall provide the grantee with a payment schedule within 90 days of approving a release of lands ***for repaying the grant as provided in RSA 486-A:13, II or III, as applicable.***

~~Env-Ws 394.21~~ ***Env-Dw 1002.24*** Waivers.

(a) The rules contained in this part are intended to apply to a variety of conditions and circumstances. It is recognized that strict compliance with all rules prescribed herein might not fit every conceivable situation. ***Thus, an applicant who is or would be directly and adversely affected by the strict application of a rule in Env-Dw 1002 may request a waiver thereof in accordance with this section.***

(b) ~~Applicants may request a waiver of specific rules outlined in this part in accordance with paragraph (c), below.~~ ***Each request for a waiver shall be filed with the department in writing and contain the information specified in (c), below.***

(c) ~~All requests for waivers shall: (1) Be submitted in writing to the department; and (2) Include~~ ***The applicant shall provide*** the following information:

~~a.(1)~~ A description of the grant request to which the waiver request relates;

~~b.(2)~~ A specific reference to the section of the rule for which a waiver is being sought;

~~c.(3)~~ A full explanation of why a waiver is necessary ~~and demonstration of hardship caused if the rule is adhered to,~~ ***including an explanation of the consequences of complying with the rule as written;***

~~d.(4)~~ A full explanation of the alternative(s) for which a waiver is sought ***proposed to be used in lieu of the requirement, if any,*** with backup data for support, ***as appropriate;*** ~~and~~

(5) Whether the need for the waiver is time-limited and, if so, the estimated length of time the waiver will be needed;

~~e.(6)~~ A full explanation of ~~how the alternatives for which a waiver is sought are consistent with the intent of RSA 486-A and would have a just result~~ ***why granting the waiver would meet the criteria specified in (e) and (f), below.***

(d) ***The applicant shall sign and date the request. The signature shall constitute certification that the information provided is true, complete, and not misleading to the knowledge and belief of the signer.***

~~(de)~~ ***Subject to (f), below, the department shall approve a request for grant*** a waiver if it finds that the alternatives proposed are at least equivalent to the requirements contained in this part, and are adequate to ensure that the provisions of RSA 486-A are met.:

(1) Granting the request will not result in an adverse impact on the environment, public health, or public safety, that is more significant than that which would result from complying with the rule; and

(2) One or more of the following conditions is satisfied:

a. Granting the request is consistent with the intent and purpose of the rule being waived; or

b. Strict compliance with the rule will provide no benefit to the public or the environment.

(f) ***No waiver shall be granted if the effect of the waiver would be to waive or modify a statutory***

requirement.

~~(e) The department shall not grant any waiver which in its judgment contravenes the intent of any rule.~~

(fg) The department shall issue a written response to a request for a waiver within 30 days of a complete request. If the waiver is denied, the denial shall specifically set forth the reason(s) for the denial.

(h) The department shall include such conditions in a waiver as are necessary to ensure that the criteria of (e) and (f), above, are met.

(i) If the need for a waiver is temporary, the waiver shall specify the date on which it will expire.

APPENDIX

Rule Section(s)	State Statute(s) Implemented
Env-Dw 1002.01	RSA 486-A:1
Env-Dw 1002.02	RSA 486-A:2
Env-Dw 1002.03	RSA 486-A:11
Env-Dw 1002.03(a) and (b)	RSA 486-A:11, II
Env-Dw 1002.03(c)	RSA 486-A:11, III
Env-Dw 1002.03(d)	RSA 486-A:9, II(d); RSA 486-A:11, IV
Env-Dw 1002.03(e) and (f)	RSA 486-A:9, II(d); RSA 486-A:11, I, III, & V; RSA 486-A:13
Env-Dw 1002.04	RSA 486-A:11, II & III
Env-Dw 1002.05	RSA 486-A:2, III-a & VIII; RSA 486-A:7, II(a); RSA 486-A:11, II
Env-Dw 1002.06	RSA 486-A:2, III-a & VIII; RSA 486-A:3, II; RSA 486-A:12
Env-Dw 1002.07	RSA 486-A:11, II & III
Env-Dw 1002.08	RSA 486-A:9, II; RSA 486-A:11, II & III
Env-Dw 1002.09	RSA 486-A:11, III
Env-Dw 1002.10	RSA 486-A:7, II(a) - (e); RSA 486-A:11, III
Env-Dw 1002.11	RSA 486-A:11
Env-Dw 1002.12 - Env-Dw 1002.14	RSA 486-A:8, II; RSA 486-A:11, IV
Env-Dw 1002.15	RSA 486-A:11, III
Env-Dw 1002.16; Env-Dw 1002.17	RSA 486-A:11, I & III
Env-Dw 1002.18	RSA 486-A:11, III
Env-Dw 1002.19	RSA 486-A:1; RSA 486-A:11, III
Env-Dw 1002.20	RSA 486-A:11, III
Env-Dw 1002.21	RSA 486-A:11, III & V
Env-Dw 1002.22	RSA 486-A:7, II(c) & (d); RSA 486-A:11
Env-Dw 1002.23	RSA 486-A:13
Env-Dw 1002.24	RSA 486-A:11; RSA 541-A:22, IV